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ABSTRACT

Focusing on issues surrounding the unauthorized copying of software, this pamphlet is particularly concerned with the illegality of such action and the necessity for educators to respect the intellectual work and property of others. Some relevant facts about unauthorized copying of software are followed by a statement of principle about intellectual property and the legal ethical use of software, which is intended for adaptation and use by individual colleges and universities. Answers to some common questions about copying software and the U.S. Copyright Act are also provided, as well as a brief discussion of alternatives to copy-protected software. (RP)

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

SOFTWARE enables us to accomplish many different tasks with computers. Unfortunately, in order to get their work done quickly and conveniently, some people justify making and using unauthorized copies of software. They may not understand the implications of their actions or the restrictions of the U.S. copyright law.

HERE ARE SOME RELEVANT FACTS:

UNAUTHORIZED copying of software is illegal. Copyright law protects software authors and publishers, just as patent law protects inventors.

UNAUTHORIZED copying of software by individuals can harm the entire academic community. If unauthorized copying proliferates on a campus, the institution may incur a legal liability. Also, the institution may find it more difficult to negotiate agreements that would make software more widely and less expensively available to members of the academic community.

UNAUTHORIZED copying of software can deprive developers of a fair return for their work, increase prices, reduce the level of future support and enhancement, and inhibit the development of new software products.

RESPECT for the intellectual work and property of others has traditionally been essential to the mission of colleges and universities. As members of the academic community, we value the free exchange of ideas. Just as we do not tolerate plagiarism, we do not condone the unauthorized copying of software, including programs, applications, data bases and code.

THEREFORE, we offer the following statement of principle about intellectual property and the legal and ethical use of software. This "code"—intended for adaptation and use by individual colleges and universities—was developed by the EDUCOM Software Initiative.

SOFTWARE AND INTELLECTUAL RIGHTS

Respect for intellectual labor and creativity is vital to academic discourse and enterprise. This principle applies to works of all authors and publishers in all media. It encompasses respect for the right to acknowledgment, right to privacy, and right to determine the form, manner, and terms of publication and distribution.

Because electronic information is volatile and easily reproduced, respect for the work and personal expression of others is especially critical in computer environments. Violations of authorial integrity, including plagiarism, invasion of privacy, unauthorized access, and trade secret and copyright violations, may be grounds for sanctions against members of the academic community.

QUESTIONS YOU MAY HAVE ABOUT USING SOFTWARE

a. *What do I need to know about software and the U.S. Copyright Act?*

Unless it has been placed in the public domain, software is protected by copyright law. The owner of a copyright holds exclusive right to the reproduction and distribution of his or her work. Therefore, it is illegal to duplicate or distribute software or its documentation without the permission of the copyright owner. If you have purchased your copy, however, you may make a back-up for your own use in case the original is destroyed or fails to work.

b. *Can I loan software I have purchased myself?*

If your software came with a clearly visible license agreement, or if you signed a registration card, READ THE LICENSE CAREFULLY before you use the software. Some licenses may restrict use to a specific computer. Copyright law does not permit you to run your software on two or more computers simultaneously unless the license agreement specifically allows it. It may, however, be legal to loan your software to a friend temporarily as long as you do not keep a copy.

c. ***If software is not copy-protected, do I have the right to copy it?***

Lack of copy-protection does NOT constitute permission to copy software in order to share or sell it. "Non-copy-protected" software enables you to protect your investment by making a back-up copy. In offering non-copy-protected software to you, the developer or publisher has demonstrated significant trust in your integrity.

d. ***May I copy software that is available through facilities on my campus, so that I can use it more conveniently in my own room?***

Software acquired by colleges and universities is usually licensed. The licenses restrict how and where the software may be legally used by members of the community. This applies to software installed on hard disks in microcomputer clusters, software distributed on disks by a campus lending library, and software available on a campus mainframe or network. Some institutional licenses permit copying for certain purposes. Consult your campus authorities if you are unsure about the use of a particular software product.

e. ***Isn't it legally "fair use" to copy software if the purpose in sharing it is purely educational?***

No. It is illegal for a faculty member or student to copy software for distribution among the members of a class, without permission of the author or publisher.

ALTERNATIVES TO EXPLORE

Software can be expensive. You may think that you cannot afford to purchase certain programs that you need. But there are legal alternatives to unauthorized copying.

SITE LICENSED AND BULK-PURCHASED SOFTWARE

Your institution may have negotiated agreements that make software available either to use or to purchase at special prices. Consult your campus computing office for information. Software available through institutional site licenses or bulk purchases is subject to copyright and license restrictions, and you may not make or distribute copies without authorization.

SHAREWARE

Shareware, or "user-supported" software, is copyrighted software that the developer encourages you to copy and distribute to others. This permission is explicitly stated in the documentation or displayed on the computer screen. The developer of shareware generally asks for a small donation or registration fee if you like the software and plan to use it. By registering, you may receive further documentation, updates and enhancements. You are also supporting future software development.

PUBLIC DOMAIN SOFTWARE

Sometimes authors dedicate their software to the public domain, which means that the software is not subject to any copyright restrictions. It can be copied and shared freely.

Software without copyright notice is often, but not necessarily, in the public domain. Before you copy or distribute software that is not explicitly in the public domain, check with your campus computing office.

A FINAL NOTE

Restrictions on the use of software are far from uniform. You should check carefully each piece of software and the accompanying documentation yourself. In general, you do not have the right to:

1. *receive and use unauthorized copies of software, or*
2. *make unauthorized copies of software for others.*

If you have questions not answered by this brochure about the proper use and distribution of a software product, seek help from your computing office, from the software developer, or publisher.

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